

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOSE YABIEL AVILES LOIZ**

*Plaintiff*

**v.**

**ANDREW SAUL, Commissioner of the  
Social Security Administration**

*Defendant*

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**CIVIL ACTION**

**NO. 18-5620**

**O R D E R**

**AND NOW**, this 14<sup>th</sup> day of April 2020, upon consideration of the *Report and Recommendation* (the “R&R”) issued on February 27, 2020 by the Honorable Linda K. Caracappa, United States Magistrate Judge, [ECF 28], to which no objections have been filed, it is hereby **ORDERED** that:

1. the *Report and Recommendation* is **APPROVED** and **ADOPTED**; and
2. the case is **REMANDED** to the Commissioner of the Social Security Administration (“Commissioner”) so that it can be reassigned to a properly-appointed administrative law judge (“ALJ”), other than the ALJ who originally heard Plaintiff’s case, for a new hearing and/or determination.<sup>1</sup>

**BY THE COURT:**

/s/ Nitza I. Quiñones Alejandro

**NITZA I. QUIÑONES ALEJANDRO**

*Judge, United States District Court*

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<sup>1</sup> In the R&R, the Magistrate Judge recommended that this matter be remanded to the Commissioner for reassignment to a properly-appointed ALJ, consistent with the Supreme Court’s decision in *Lucia v. S.E.C.*, 138 S. Ct. 2044 (2018), and the recent decision of the United States Court of Appeals for the Third Circuit (the “Third Circuit”) in *Cirko v. Comm’r of Soc. Sec.*, 948 F.3d 148 (3d Cir. 2020). Accordingly, in light of the Third Circuit’s decision in *Cirko*, the R&R is approved and adopted, and this matter is remanded to the Commissioner for reassignment to a properly-appointed ALJ and a new hearing and/or determination.